

**FILED**  
**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF NEW MEXICO**

JUN 18 2003

JAMES SEABA and  
CORY PHILLIPS,

*R. Morrison*  
CLERK

Plaintiffs,  
v.

Civ. No. 02-103 LH/RHS

MESOSYSTEMS TECHNOLOGY, INC..

Defendant.

**AFFIDAVIT OF SCOTT STEVENS  
IN SUPPORT OF DEFENDANT'S REPLY TO PLAINTIFFS' RESPONSE TO  
MOTION TO DISMISS**

STATE OF OREGON )  
                    )  
COUNTY OF MULTNOMAH ) ss.  
                    )

Scott Stevens, being first duly sworn upon oath, states as follows:

1. I am the Director of Business Development for New Technologies Armor, Inc. ("NTI").
2. I have personal knowledge of the matters stated herein.
3. I submit this affidavit in support of Defendant's Reply to Plaintiffs' Response to Motion to Dismiss Plaintiffs' Complaint and for Attorneys' Fees and Costs as a Sanction for Plaintiffs' Abuse of the Discovery Process.
4. NTI has been retained by MesoSystems Technology, Inc. ("MesoSystems") to maintain custody and control of two computer laptops and to conduct a factual examination of the activity on the hard drives of the laptops after December 6, 2001.

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5. In early February 2002, I spoke with Kirk Soderquist of Perkins Coie LLP, counsel for MesoSystems, regarding providing computer examination services on two laptops for MesoSystems.

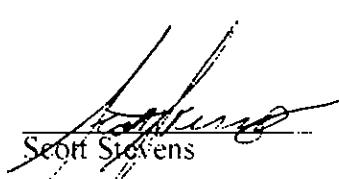
6. Neither NTI nor I were involved in setting up and implementing MesoSystems' chain of custody procedures.

7. I have no first-hand knowledge of the whereabouts of the two laptop computers at issue prior to NTI taking possession of them in February 2002. Although the shipping label reflects that the laptops were sent to my attention, I did not handle the computers when they were delivered to NTI.

8. Generally, when a client sends a computer to NTI for examination, the package is sent to my attention as the sales representative. The package is generally delivered to the receptionist for NTI, who then signs the receipt of the package delivery. Then, the receptionist notifies the Consulting Department that there is a package waiting. A member of the Consulting Department then takes the package and puts it in a secured storage room. After the package is secured, the consultant receiving the package enters a log of the receipt of the package into NTI's database. I never receive the computers because I do not handle the examination thereof.

9. In November 2002, NTI submitted a contract to MesoSystems governing NTI's provision of services related to the examination of two laptops. The contract was not fully executed until December 31, 2002. NTI could not and did not begin its examination of the laptops until the contract was fully executed.

10. As of June 9, 2003, NTI has billed MesoSystems for \$32,041.94 covering all expenses and billable time through June 9, 2003.



~~Scott Stevens~~

SUBSCRIBED and SWORN to before me this 11 day of June, 2003.

Deborah Greene  
Print Name: Deborah Greene  
Notary Public in and for the State of Oregon,  
residing at Oregon, Oregon  
My commission expires. 01/22/2006



I HEREBY CERTIFY that a true  
and correct copy of the foregoing  
was mailed to counsel of record  
this 18<sup>th</sup> day of June, 2003

Alberto A. Leon